

Adopted	Rejected
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COMMITTEE REPORT

YES:	7
NO:	5

MR. SPEAKER:

*Your Committee on Labor and Employment, to which was referred House Bill 1027, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 22-2-2-3 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. As used in this
- 5 chapter:
- 6 "Commissioner" means the commissioner of labor or the
- 7 commissioner's authorized representative.
- 8 "Department" means the department of labor.
- 9 "Occupation" means an industry, trade, business, or class of work
- 10 in which employees are gainfully employed.
- 11 "Employer" means any individual, partnership, association, limited
- 12 liability company, corporation, business trust, the state, or other
- 13 governmental agency or political subdivision during any work week in
- 14 which they have two (2) or more employees. ~~However, it shall not~~

1 include any employer who is subject to the minimum wage provisions
2 of the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C.
3 ~~201-209~~).

4 "Employee" means any person employed or permitted to work or
5 perform any service for remuneration or under any contract of hire,
6 written or oral, express or implied by an employer in any occupation,
7 but shall not include any of the following:

8 (a) Persons less than sixteen (16) years of age.

9 (b) Persons engaged in an independently established trade,
10 occupation, profession, or business who, in performing the
11 services in question, are free from control or direction both under
12 a contract of service and in fact.

13 (c) Persons performing services not in the course of the
14 employing unit's trade or business.

15 (d) Persons employed on a commission basis.

16 (e) Persons employed by their own parent, spouse, or child.

17 (f) Members of any religious order performing any service for that
18 order, any ordained, commissioned, or licensed minister, priest,
19 rabbi, sexton, or Christian Science reader, and volunteers
20 performing services for any religious or charitable organization.

21 (g) Persons performing services as student nurses in the employ
22 of a hospital or nurses training school while enrolled and
23 regularly attending classes in a nurses training school chartered
24 or approved under law, or students performing services in the
25 employ of persons licensed as both funeral directors and
26 embalmers as a part of their requirements for apprenticeship to
27 secure an embalmer's license or a funeral director's license from
28 the state, or during their attendance at any schools required by law
29 for securing an embalmer's or funeral director's license.

30 (h) Persons who have completed a four (4) year course in a
31 medical school approved by law when employed as interns or
32 resident physicians by any accredited hospital.

33 (i) Students performing services for any school, college, or
34 university in which they are enrolled and are regularly attending
35 classes.

36 (j) Persons with physical or mental disabilities performing
37 services for nonprofit organizations organized primarily for the
38 purpose of providing employment for persons with disabilities or

1 for assisting in their therapy and rehabilitation.

2 (k) Persons employed as insurance producers, insurance
3 solicitors, and outside salesmen, if all their services are performed
4 for remuneration solely by commission.

5 (l) Persons performing services for any camping, recreational, or
6 guidance facilities operated by a charitable, religious, or
7 educational nonprofit organization.

8 (m) Persons engaged in agricultural labor. The term shall include
9 only services performed:

10 (1) on a farm, in connection with cultivating the soil, or in
11 connection with raising or harvesting any agricultural or
12 horticultural commodity, including the raising, shearing,
13 feeding, caring for, training, and management of livestock,
14 bees, poultry, and furbearing animals and wildlife;

15 (2) in the employ of the owner or tenant or other operator of a
16 farm, in connection with the operation, management,
17 conservation, improvement, or maintenance of the farm and its
18 tools and equipment if the major part of the service is
19 performed on a farm;

20 (3) in connection with:

21 (A) the production or harvesting of maple sugar or maple
22 syrup or any commodity defined as an agricultural
23 commodity in the Agricultural Marketing Act, as amended
24 (12 U.S.C. 1141j);

25 (B) the raising or harvesting of mushrooms;

26 (C) the hatching of poultry; or

27 (D) the operation or maintenance of ditches, canals,
28 reservoirs, or waterways used exclusively for supplying and
29 storing water for farming purposes; and

30 (4) in handling, planting, drying, packing, packaging,
31 processing, freezing, grading, storing, or delivering to storage,
32 to market, or to a carrier for transportation to market, any
33 agricultural or horticultural commodity, but only if service is
34 performed as an incident to ordinary farming operation or, in
35 the case of fruits and vegetables, as an incident to the
36 preparation of fruits and vegetables for market. However, this
37 exception shall not apply to services performed in connection
38 with any agricultural or horticultural commodity after its

1 delivery to a terminal market or processor for preparation or
2 distribution for consumption.

3 As used in this subdivision, "farm" includes stock, dairy, poultry,
4 fruit, furbearing animals, and truck farms, nurseries, orchards, or
5 greenhouses or other similar structures used primarily for the
6 raising of agricultural or horticultural commodities.

7 (n) Those persons employed in executive, administrative, or
8 professional occupations who have the authority to employ or
9 discharge and who earn one hundred fifty dollars (\$150) or more
10 a week, and outside salesmen.

11 (o) Any person not employed for more than four (4) weeks in any
12 four (4) consecutive three (3) month periods.

13 (p) Any employee with respect to whom the Interstate Commerce
14 Commission has power to establish qualifications and maximum
15 hours of service under the federal Motor Carrier Act of 1935 (49
16 U.S.C. 304(3)) or any employee of a carrier subject to IC 8-2.1.".

17 Renumber all SECTIONS consecutively.

(Reference is to HB 1027 as introduced.)

and when so amended that said bill do pass.

Representative Cheney